IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3612 OF 1996

Baliram Gavatya Bhoir & Ors. ...Petitioners

Versus

Rama Mahadu Bhoir & Ors. ...Respondents

.....

Mr. Shimpi h/f Mr.P.K. Dhakephalkar, counsel for Petitioners.

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CORAM: B. H. MARLAPALLE, J.

DATED: 28TH MARCH, 2005

P. C.:-

1. Heard the learned counsel for the petitioners who impugne the order dated 8.2.1996 passed by the learned C.J.J.D. at Bhiwandi below Exh.35 in Regular Civil Suit No. 319 of 1992. Ad interim order was passed on 15.1.1997 by this Court and subsequently by the order dated 12.2.97, the petition was dismissed in default. It came to be restored by the order dated 10.8.2001 by allowing the Civil Application No. 1429 of 1997 but again this petition never appeared on board for admission for about four years and this is how it is waiting for admission for the last more than eight years. The Registry must look into the reasons for such a prolonged delay in listing the petition for admission.

2. After the plaintiff recorded his evidence, the application at Exh.35 came to be filed for amendment of the plaint stating that during the pendency of the suit, the plaintiff was forcibly dispossessed of the suit agricultural land. The trial Court considered the written statement filed on 7.7.1992 in which it was clearly averred that the defendant was already in possession of the suit land. Even in the cross examination of the plaintiff recorded on 9.3.1995, a specific question was asked to the plaintiff whether he would be satisfied if the possession of the land would be restored to him and the suit would come to an end. He replied in the affirmative and surprisingly within one week thereafter i.e. on 16.3.1995, an application for amendment was moved. The trial court has rightly rejected the said application.

3. No interference is therefore, called for in the impugned order passed by the trial Court and hence, the writ petition is rejected summarily.